

ORIGINAL

PRESTON EASLEY, ESQ./Cal State Bar No. 108347
LAW OFFICES OF PRESTON EASLEY
2500 Via Cabrillo Marina, Suite 106
San Pedro, California 90731-7724
Telephone: (310) 832-5315
Facsimile: (310) 832-7730

ATTORNEY FOR: Plaintiff
BERT MEYER

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

JAN 17 2006

at 4 o'clock and 26 min. PM
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

BERT MEYER,)	Civil No.: 04-00049 JMS-BMK
)	(In Admiralty)
)	
Plaintiff,)	PLAINTIFF'S RESPONSE TO
v.)	DEFENDANT MATSON NAVIGATION
)	COMPANY, INC.'S SEPARATE AND
MATSON NAVIGATION)	CONCISE STATEMENT OF FACTS
COMPANY, INC., and)	IN SUPPORT OF ITS MOTION FOR
PACIFIC LIVESTOCK, INC.,)	SUMMARY JUDGMENT
)	
Defendants.)	
)	

COMES NOW PLAINTIFF BERT MEYER and submits the following Plaintiff's
Response to Defendant MATSON NAVIGATION COMPANY, INC.'s Separate and
Concise Statement of Facts In Support of its Motion for Summary Judgment:

Plaintiff does not dispute facts 1, 2, 5, 6, 7, 8, 9, 10, and 12.

FACT

3. It is common for container vessels that have expanded metal catwalks to have a gap between the hatch cover and the catwalk to give the crane driver some leeway in landing the very heavy and awkward hatch covers into place.
4. Matson Navigation had no knowledge of safety concerns regarding the space between the hatch covers and the catwalks.
11. Prior to slipping on the padeye, Meyer already knew that it was not safe for him to use the padeye for leverage.

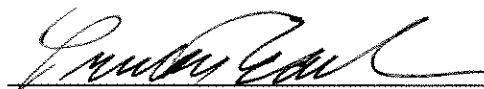
Dated: January 16, 2006

EVIDENCE IN OPPOSITION

Disputed. See declarations of Bert Meyer and Capt. Robert E. Riley.

Disputed. Matson's contention that it had no knowledge of safety concerns regarding the space between the hatch covers and the catwalks is absurd. The gap violates Matson's own Safety and Pollution Manual. See Declaration of Capt. Robert E. Riley. "Congress made clear that when conditions are obviously dangerous, constructive knowledge on the part of the shipowner can be inferred, even where actual knowledge cannot be shown". Bueno v. United States, 687 F2d 318, 320 (9th cir 1983).

Disputed. See Declaration of Bert Meyer.


PRESTON EASLEY
Attorney for Plaintiff
BERT MEYER